

1 STEPHANIE M. HINDS (CABN 154284)
2 Acting United States Attorney
3 MICHELLE LO (NYRN 4325163)
Chief, Civil Division
3 DAVID M. DEVITO (CABN 243695)
Assistant United States Attorney
4 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
5 Telephone: 415-436-7332
FAX: (415) 436-6748
6 david.devito@usdoj.gov

7 TODD KIM
Assistant Attorney General
8 Environmental and Natural Resources Division
United States Department of Justice
9

10 MATTHEW P. RAND (NYBN 4937157)
Trial Attorney
Natural Resources Section
11 Environmental and Natural Resources Division
United States Department of Justice
12 150 M St. NE, Room 3.128
Washington, D.C. 20002
13 Telephone: (202) 305-0874
Facsimile: (202) 305-0506
14 matthew.rand@usdoj.gov

15 Attorneys for Defendants

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION

19 JACK GESCHEIDT, *et al.*,

Case No. 4:21-cv-4734-HSG

20 Plaintiffs,

**STIPULATION AND ORDER
REGARDING SUPPLEMENTATION OF
ADMINISTRATIVE RECORD**

21 v.

Hon. Haywood S. Gilliam, Jr.

22 DEB HAALAND, Secretary of Interior, *et al.*,

23 Defendants.

25 Plaintiffs and Defendants, through their undersigned counsel, hereby stipulate as follows:

26 WHEREAS, on October 12, 2021, Defendants filed the Certified Administrative Record
27 (“CAR”) for this action. ECF Nos. 39-47.
28

1 WHEREAS, Plaintiffs seek to supplement the CAR with the following documents (collectively,
2 "Plaintiffs' Supplemental Documents"):

- 3 • Letter dated August 13, 2020 to the NPS from Katherine Meyer on behalf of the Center for
4 Biological Diversity requesting that NPS take actions to ensure the Tule elk have access to
5 sufficient water;
- 6 • Necropsies conducted on Tule elk found dead or euthanized in Point Reyes National
7 Seashore since 2012;
- 8 • Letter submitted to Secretary Haaland on behalf of five wildlife biologists, dated June 24, 2021,
9 expressing their collective concerns about the lack of forage and water available to the Tule Elk
10 at Tomales Point;
- 11 • Letter from Plaintiffs' counsel to Defendants' counsel dated August 16, 2021, outlining
12 worsening conditions at Tomales Point, including photographs and video footage;
- 13 • Cobb, McCrea, *Spatial Ecology and Population Dynamics of tule elk at Point Reyes National
Seashore, California* (Summer 2010);

14 WHEREAS, the Parties wish to avoid unnecessary litigation regarding the propriety of
15 supplementing the CAR with Plaintiffs' Supplemental Documents.

16 NOW THEREFORE, the Parties hereby STIPULATE, by and through their undersigned counsel,
17 that Plaintiffs' Supplemental Documents shall be filed with the Court in a Supplemental Administrative
18 Record ("SAR") to be prepared and filed by Plaintiffs on or before November 22, 2021. Plaintiffs may
19 cite to and rely upon the SAR, provided, however, that the filing of the SAR does not constitute, and
20 shall not be construed as, an admission or evidence that Plaintiffs' Supplemental Documents (a) are
21 relevant to the claim asserted in Plaintiffs' First Amended Complaint or to Defendants' defenses thereto;
22 or (b) were or should have been considered by Defendants with respect to any alleged action or inaction,
23 including but not limited to whether or not to revise the 1980 Point Reyes National Seashore General
24 Management Plan.

25 DATED: November 17, 2021

26 Respectfully submitted,

27
28 STEPHANIE M. HINDS
Acting United States Attorney

/s/ David M. DeVito¹
DAVID M. DEVITO
Assistant United States Attorney

Attorneys for Defendants

TODD KIM
Assistant Attorney General
Environment & Natural Resources Division

/s/ Matthew P. Rand
Matthew P. Rand
Trial Attorney

Dated: November 17, 2021

Respectfully submitted,

/s/ Kate Barnekow
Kate Barnekow
Ca. Bar No. 336792
Animal Law & Policy Clinic
Harvard Law School
1585 Massachusetts Ave.
Cambridge, MA 02138
kbarnekow@law.harvard.edu
Cell: (512) 868-7800

Attorney for Plaintiffs

¹ In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of perjury that counsel for Plaintiffs has concurred in the filing of this document.

ORDER

Pursuant to stipulation of the Parties, it is hereby ordered that:

3 1. On or before November 22, 2021, Plaintiffs shall file the Supplemental Administrative
4 Record consisting of Plaintiffs' Supplemental Documents.

5 2. Plaintiffs may cite to and rely upon Plaintiffs' Supplemental Documents, provided,
6 however, that the filing of the SAR with the Court does not constitute, and shall not be construed as, an
7 admission or evidence that Plaintiffs' Supplemental Documents (a) are relevant to the claim asserted in
8 Plaintiffs' First Amended Complaint or Defendants' defenses thereto; or (b) were or should have been
9 considered by Defendants with respect to any alleged action or inaction, including but not limited to
10 whether or not to revise the 1980 Point Reyes National Seashore General Management Plan ("GMP").

12 | DATED: 11/17/2021

Haywood S. Gilliam, Jr.
HONORABLE HAYWOOD S. GILLIAM, JR.
United States District Judge